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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES PATRICK BURNS,

Defendant.

Case No.: 3:21-cr-00046-MMD-WGC

Joint Motion for Protective Order

COMES NOW the United States of America, by and through CHRISTOPHER CHIOU, Acting United States Attorney, and ANDOLYN JOHNSON, Assistant United States Attorney, and CHRISTOPHER FREY and KATE BERRY, counsel for defendant James Patrick Burns, and hereby stipulate and jointly request the Court to enter the attached proposed protective order pursuant to Federal Rule of Criminal Procedure 16(d).

The discovery materials to be provided by the government contain files as well as video and audio recordings which contain identifying information of minor victims in this matter (hereinafter the “protected information”). The protected information cannot be easily redacted. Given the nature of the information, the parties agree that there is good cause to enter the

1 protective order to allow the defendant to fully evaluate this information while also protecting the
2 minor victims.

3 The “defense team” in this matter includes only the defendant, counsel of record for the
4 defendant, defense experts, and employees of the Federal Public Defenders’ Office who are
5 working on this case. The term “defense team” does not include any person or entity not
6 specifically identified herein, and thus does not include any of the defendant’s family members or
7 any other associates of the defendant.

8 The parties respectfully request that the Court order that the “defense team” shall not:

- 9 a. leave or provide copies of the protected information with the defendant James
10 Patrick Burns, who is detained pending trial;
- 11 b. allow the defendant to view the protected information outside the presence of a
12 member of the defense team;
- 13 c. make copies of the protected information or allow copies of any kind to be made for
14 any other person;
- 15 d. allow any other person to view, hear or read the protected information;
- 16 e. divulge to any other person the contents of the protected information;
- 17 f. use the protected information for any purpose other than preparing to defend
18 against the charges in the indictment or any further superseding indictment arising
19 out of this case.

20 Defendant’s counsel of record agrees to advise all members of the defense team of their
21 obligations under the Protective Order and ensure their agreement to follow the Protective Order
22 prior to providing members of the defense team with access to any materials subject to the
23 Protective Order. In particular, defense counsel agrees to instruct the defendant James Patrick
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1 Burns that he shall not divulge the protected information to any other person and that doing so
2 would constitute a violation of a Court Order.

3 The government will identify any discovery produced under the Court's Protective Order
4 by labeling the CD or document "Confidential – Subject to Protective Order."

5 The parties agree that the Protective Order does not constitute a ruling on the question of
6 whether any particular material is properly discoverable or admissible and does not constitute any
7 ruling on any potential objection to the admissibility of any material.

8 Finally, upon conclusion of this action, the defendant's counsel agrees to return the
9 protected information to the United States or destroy and certify to government counsel the
10 destruction of the protected information, within a reasonable time, not to exceed thirty days after
11 the last appeal is final.

12 Accordingly, the parties jointly request the Court to enter the attached proposed protective
13 order.

14 IT IS SO STIPULATED.

15 Dated: November 17, 2021

Respectfully Submitted,

CHRISTOPHER CHIOU
Acting United States Attorney

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18 /s/ Andolyn Johnson
ANDOLYN JOHNSON
Assistant United States Attorney

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21 /s/ Christopher Frey
CHRISTOPHER FREY
KATE BERRY
Attorneys for Defendant
JAMES PATRICK BURNS
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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 UNITED STATES OF AMERICA,
6 Plaintiff,
7 vs.
8 JAMES PATRICK BURNS,
9 Defendant.

Case No.: 3:21-cr-00046-MMD-WGC

Protective Order

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11 The Court has read and considered the Joint Motion for Protective Order restricting
12 the use and dissemination of files containing identifying information of minor victims in this
13 matter (hereinafter the “protected information”), filed by the government and the defendant
14 James Patrick Burns, and the Court hereby ORDERS as follows:

15 1. The Court finds that there is good cause to enter this Protective Order to allow the
16 defendant to fully evaluate the protected information while also protecting the minor victims.
17 Therefore, the United States may produce the protected information to the defendant’s counsel
18 subject to the conditions set forth in this Order.

19 2. For purposes of the Protective Order, the term “defense team” refers to the defendant,
20 counsel of record for the defendant, defense experts, and employees of the Federal Public Defenders’
21 Office who work on this case. The term “defense team” does not include any other person or entity,
22 and thus does not include the defendant’s family members or any other associates of the defendant.

23 3. The defense team shall not:
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- a. leave or provide copies of the protected information with the defendant James Patrick Burns, who is detained pending trial;
- b. allow the defendant to view the protected information outside the presence of a member of the defense team;
- c. make copies of the protected information or allow copies of any kind to be made for any other person;
- d. allow any other person to view, hear or read the protected information;
- e. divulge to any other person the contents of the protected information;
- f. use the protected information for any purpose other than preparing to defend against the charges in the indictment or any further superseding indictment arising out of this case.

4. Defendant's counsel shall advise all members of the defense team of their obligations under the Protective Order and ensure their agreement to follow the Protective Order prior to providing members of the defense team with access to the protected information. Defendant's counsel shall instruct the defendant James Patrick Burns that he shall not divulge the protected information to any other person and that doing so would constitute a violation of a Court Order.

5. The government will identify any discovery produced under the Court's Protective Order by labeling the CD or document "Confidential – Subject to Protective Order."

6. This Order does not constitute a ruling on the question of whether any particular material is properly discoverable or admissible and does not constitute any ruling on any potential objection to the admissibility of any material.

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1 7. Finally, the Court orders that upon conclusion of this action, defendant's attorney
2 shall return the protected information to the United States or destroy and certify to government
3 counsel the destruction of the protected information, within a reasonable time, not to exceed thirty
4 days after the last appeal is final.

5 IT IS SO ORDERED.

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7 11/22/2021

8 _____
9 DATE


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11 HONORABLE MIRANDA M. DU
12 UNITED STATES DISTRICT JUDGE
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